



PATENT CASE: DX01342

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Re Application of: Homey *et al.*

: Examiner: Elizabeth Kemmerer

:
For: Uses of Mammalian Genes
and Related Reagents

:
Group Art Unit: 1646

:
Serial No.: 09/995,534

:
Filing Date: November 27, 2001

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May 7, 2003

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action, Paper No. 9, (Confirmation No. 2027) dated April 9, 2003, in the above-identified application, for which a response is due May 9, 2003.

Restriction requirement

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 10, 13, 14, and 16-26 (all in part), drawn to a methods for treating wounds comprising administering lymphotactin polypeptide, classified in 424, subclass 85.1.
- II. Claims 10 (in part), 13 (in part), 14 (in part), 15, and 16-26 (in part), drawn to a methods for treating wounds comprising administering lymphotactin nucleic acids, classified in 514, subclass 44.

Response

In response to the present Restriction Requirement, Applicants elect Group I (Claims 10, 13, 14 and 16-26, all in part) with traverse. These claims are directed to methods for treating wounds comprising administering a cytokine polypeptide to accelerate wound healing. As noted in Applicants' February 26, 2003 communication, Applicants had selected lymphotactin among the species of cytokines and cytokine receptors listed by the Examiner in the Office Action, Paper No. 6, dated January 15, 2003.

Although the two groups noted above identify inventions that are independent and distinct, Applicants believe that they are sufficiently related to be examined together without causing undue burden to the Examiner. Both groups are drawn to protein delivery. Group I is directed to delivery of lymphotactin polypeptide. Group II is directed to administration of a nucleic acid that expresses lymphotactin polypeptide. As Group II inherently involves the delivery of lymphotactin polypeptide, Applicants believe it would not be a serious burden for the Examiner to examine Group I together with Group II.

According to MPEP §803, there are two criteria for a proper Restriction Requirement:

- (1) the invention must be independent or distinct as claimed, and
- (2) there must be a serious burden on the examiner if the restriction is not required.

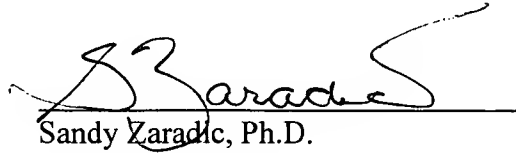
Moreover,

if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

In conclusion, Applicants respectfully request reconsideration and withdrawal of this Restriction Requirement. Furthermore, Applicants believe that the next step in the prosecution of this Application should be in the form of a Notice of Allowance and respectfully solicit such action.

If the Examiner has any questions regarding this response, she is encouraged to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Zaradic', is written over a horizontal line.

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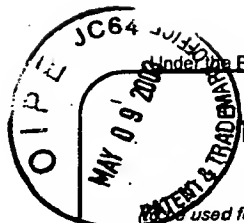
9p1646

PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031

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Application Number	09/995,534
Filing Date	November 27, 2001
First Named Inventor	Homey et al.
Art Unit	1646
Examiner Name	Elizabeth Kemmerer
Attorney Docket Number	DX01342

Total Number of Pages In This Submission

5

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Attorney Docket No.: DX01342

Application No.: 09/995,534

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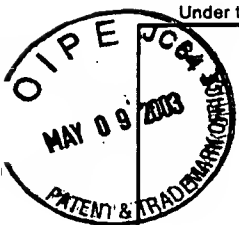
Inventor: Homey et al.

PTO/SB92 (08-00)

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